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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

SMASH TECHNOLOGY, LLC, a Nevada
limited liability company; and MICHAEL
ALEXANDER, an individual;

Plaintiffs,

vs.

SMASH SOLUTIONS, LLC, a Delaware
limited liability company; JERRY "J.J."
ULRICH, an individual; and JOHN DOES
1-3;

Defendants.

**NOTICE OF REMOVAL OF
STATE CIVIL ACTION**

Civil No. 2:19-cv-00105-DBP

Magistrate Judge Dustin B. Pead

Each named Defendant, Smash Solutions, LLC and Jerry Ulrich, by and through counsel of record, Zachary E. Peterson, Matthew C. Barneck, and Kristina H. Ruedas of RICHARDS BRANDT MILLER NELSON, hereby give notice of the removal from the Fourth Judicial District Court in and for Utah County, State of Utah, of Civil Action No. 190400159, captioned *Smash*

Technology, LLC and Michael Alexander v. Smash Solutions, LLC, Jerry “J.J.” Ulrich and Does 1-3, to the United States District Court for the District of Utah, Central Division. This notice is submitted pursuant to 28 U.S.C. §§ 1441 and 1446.

In support of the removal of this action, all Defendants state as follows:

1. Plaintiffs commenced this action in the Fourth Judicial District Court in and for Utah County, State of Utah, by filing of a Complaint on January 28, 2019. (A copy of Plaintiffs’ Complaint and a Court Docket from the Fourth Judicial District Court, Utah County, State of Utah are attached hereto as Exhibits A and B, respectively.)

2. In the Complaint, Plaintiffs assert a sixth cause of action arising under the Lanham Act, 15 U.S.C. § 1125(a)(1)(B), for false advertising and false designation of origin. (*See* Exh. A at p.11.)

3. In the Complaint, Plaintiffs allege a seventh cause of action rising under the Lanham Act, 15 U.S.C. § 1125(a)(1)(A), for unfair competition. (*See* Exh. A at p.12.)

4. Based on these two causes of action, Plaintiffs’ Complaint facially presents two federal questions under the Lanham Act, 15 U.S.C. § 1125, *et seq.*

5. Accordingly, Defendants remove this case pursuant to 28 U.S.C. § 1441.

6. Pursuant to 28 U.S.C. § 1446, Defendants state that Plaintiffs’ Complaint was filed on January 28, 2019. (*See* Court Docket attached as Exhibit B.)

7. Defendant Smash Solutions was served with a copy of the Complaint on February 1, 2019. (*See* Exh. B.)

8. Defendant Jerry Ulrich was served with a copy of the Complaint on February 5 2019. (*See* Exh. B.)

9. This Notice of Removal is being filed on February 15, 2019 and within the 30 days after receipt by the Defendants pursuant to 28 U.S.C. § 1446(b)(1) & (2)(C).

10. This Court has original jurisdiction of this action under the provisions of 28 U.S.C. § 1331 and this matter may be removed pursuant to the provisions of 28 U.S.C. § 1441, because the causes of action referenced above present federal questions. The Court has supplemental jurisdiction of all other claims alleged in the Complaint under 28 U.S.C. § 1367 because they form part of the same case or controversy under Article III of the United States Constitution.

11. Pursuant to the provisions of 28 U.S.C. § 1446(b)(2)(A), each Defendant, Smash Solutions, LLC and Jerry Ulrich, who have been properly joined and served, join in and consent to the removal of this action.

12. Pursuant to the provisions of 28 U.S.C. § 1446(d), Defendants have filed this notice with the Clerk of the Fourth Judicial District Court in and for Utah County, State of Utah and provided notice to counsel for Plaintiffs.

WHEREFORE, all Defendants pray for the above-styled action now pending in the Fourth Judicial District Court in and for Utah County, State of Utah, be removed from said state court to the United States District Court for the District of Utah, Central Division, pursuant to 28 U.S.C. § 1441 and § 1446.

DATED this 15th day of February, 2019.

RICHARDS BRANDT MILLER NELSON

s/ Zachary E. Peterson

MATTHEW C. BARNECK

ZACHARY E. PETERSON

KRISTINA H. RUEDAS

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of February, 2019, I electronically filed the foregoing **NOTICE OF REMOVAL OF STATE CIVIL ACTION** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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